

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA

v.

**JOHN D. WHELAN
TINA MONTEZON**

**INITIAL APPEARANCE/ARRAIGNMENT
AND PLEA MINUTES**

CASE NUMBER 21-CR-05

HONORABLE WILLIAM E. DUFFIN, presiding
Deputy Clerk: Amanda Chasteen
Hearing Held: January 29, 2021 at 1:30 PM

Court Reporter: Zoom Audio
Hearing Began: 1:30:00 PM
Hearing Ended: 1:58:00 PM

Appearances:

UNITED STATES OF AMERICA by: Kevin Knight and Julie Stewart
JOHN D. WHELAN, via video conference, and by: Michael Penkwitz
TINA MONTEZON, via video conference, and by: Jonathan Smith
U.S. PROBATION OFFICE by: Joshua Hanzlik

☐ CJA ☐ FDS ☒ RET
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☒ Original Indictment ☐ Superseding Indictment ☐ Information ☐ Misdemeanor ☒ Felony

Speedy Trial Date: April 9, 2021
Plea Deadline:
Final Pretrial Report
Final Pretrial Conf.:
Jury Trial Date:
Trial Length Estimate: 5 days

District Judge: Brett Ludwig
Bond Judge: William E. Duffin
Magistrate Judge: Nancy Joseph
Motions Due: To Be Set
Responses Due: To Be Set
Replies Due: To Be Set

☒ Defendant consents to proceed via video
☒ Defendant advised of rights
☒ Court orders counsel appointed
☒ Defendant advised of charges, penalties, and fines
☒ Copy of indictment received by defendant
☒ Indictment read ☐ defendant waives reading
☒ Not guilty plea entered by: ☒ defendant ☐ the court
☒ Expanded discovery policy applies (*See Order below*)
Discovery available: Already started a rolling
production of discovery.

☐ Government to disclose grand jury materials
one day prior to trial
☐ Oral Motion for Complex Designation
☐ Granted ☐ Denied
☐ Referred to Nancy Joseph
☐ Case designated complex
☒ Counsel Only Scheduling Conference:
February 4, 2021 at 10:00 AM via Zoom
before Magistrate Judge Nancy Joseph

Maximum Penalties:

WHELAN: Count 1: SENT: 20 years; FINE: \$1 Million; SR: 3 years; SA: \$100; **Count 2:** SENT: 20 years; FINE: \$500,000; SR: 3 years; SA: \$100; **Counts 3-6:** SENT: 20 years; FINE: \$1 million; SR 3 years; SA: \$100; **Counts 7-13:** SENT: 20 years; FINE: \$1 Million; SR: 3 years; SA: \$100; **Count 14:** SENT: 5 years; FINE: \$250,000; SR: 3 years; SA: \$100.

MONTEZON: Count 1: SENT: 20 years; FINE: \$1 Million; SR: 3 years; SA: \$100; **Count 2:** SENT: 20 years; FINE: \$500,000; SR: 3 years; SA: \$100; **Counts 7-13:** SENT: 20 years; FINE: \$1 Million; SR: 3 years; SA: \$100; **Count 15:** SENT: 5 years; FINE: \$250,000; SR: 3 years; SA: \$100.

BOND

GOVT no objections to debt being released with conditions

- Proposed conditions of release as to **John D. Whelan**: Not to prescribe or dispense or administer any controlled substances; no control, oversight, or training, with individuals to prescribe, dispense or administer any controlled substances; not see or treat patients outside of an established practice; no travel outside of ED WI without prior approval; not dispose of or transfer assets worth more than \$1000,00 without pretrial approval; no contact between defendants in this case.
- Proposed conditions of release as to **Tina Montezon**: No involvement with anyone who is distributing or dispensing controlled substances at issue in this matter. no travel outside of ED WI without prior approval; not dispose of or transfer assets worth more than \$1000,00 without pretrial approval; no contact between defendants in this case.

WHELAN speaks to the govt's proposed conditions of release

- Asks that the court still allow the debt still to prescribe medications. Asks that the court not consider the no-contact order.

MONTEZON speaks to the govt's proposed conditions of release

- Asks that the court not set a no-contact order; the court could order the debts not discuss the current charges; No objection to travel restrictions. Concerned with the broad language of having no contact with anyone who dispenses controlled substances.

COURT

- Defendants are ordered to contact the USMS for processing.

Conditions of Release as to Whelan: Surrender passport; Not see or treat any patients outside established practice; no travel outside of the ED-WI with prior approval; Not prescribe controlled substances; not to exercise control over anyone who dispenses controlled substances as named in the indictment; co-defendants are not to discuss the facts of this case outside the presence of counsel; not to dispose of assets of more than \$1000,00 without prior approval from PTS, with the exception of attorney's fees, and rent or mortgage.

Conditions of Release as to Montezon: Surrender passport; not to be involved in the prescribing, dispensing or administering of controlled substances as named in the indictment; no travel outside of the ED-WI with prior approval; co-defendants not to discuss the facts of this case outside the presence of counsel; not to dispose of assets more than \$1000,00 without prior approval from PTS, with the exception of attorney's fees, and rent or mortgage.

GOVT

- Makes corrections to charging documents as stated on the record.

IT IS HEREBY ORDERED that as required by Federal Rule of Criminal Procedure 5(f), the court **ORDERS** that the government must produce all exculpatory information to the defendant(s) as required by *Brady v. Maryland*, 373 U.S. 83 (1963) and its progeny. Failure to comply with this order in a timely manner may result in sanctions, including exclusion of evidence, adverse jury instructions, dismissal of charges and contempt proceedings.